

**DURHAM, NORTH CAROLINA
MONDAY, MAY 19, 2008
7:00 P.M.**

The Durham City Council met in regular session on the above date and time in the Council Chambers at City Hall with the following members present: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Absent: None.

Also present: City Manager Patrick Baker, Interim City Attorney Karen Sindelar, Deputy City Clerk Linda Bratcher and Management Assistant Tonette Amos.

Mayor Bell called the meeting to order with a moment of silent meditation and the pledge of allegiance led by Council Member Clement.

Mayor Bell swore in Ed Pope as a member of the N C Interagency Council for Coordinating Homeless Programs. Mayor Bell read a Resolution Memorializing Vivian Austin Edmonds which was presented to her son, Ken Edmonds, who made comments.

Also, the Mayor read proclamations proclaiming Youth Gang Awareness and Prevention Month presented to Yvonne Pena and Mr. Perez who made comments and May 18-24, 2008 as National Public Works Week presented to Public Works Director Katie Kalb who gave a video presentation highlighting accomplishments of Public Works during the past year.

Mayor Bell recognized Jim Burke of the State Treasurer's Office who presented the Mayor and Finance Department with the award for the City's Enterprise Resource Planning project.

Council Members made comments on the following events attended and special recognition of individuals, organizations, etc:

Council Member Ali: Bimbe Festival - Parks & Recreation: 1st Annual Cleveland/Holloway Street District Home Tour; Durham selected as 2009 host City for Library's Regional Solutions for Local Vitality Conference; and U S Baseball Team.

Council Member Woodard: Sun Trust Bank - Golden Star Awards and honoree; Durham Human Relations Commission Chair James Hill; Threshold - Wall of Hope Mural and Best High Schools recognition by Newsweek magazine – Jordan High School and Durham School of the Arts.

Mayor Pro Tempore Cole-McFadden: Southside Community Center Ribbon Cutting.

Council Member Clement: Valarie Whitted - Artful Concepts Marketing Agency.

Mayor Bell: Thanked his colleagues for participating in events throughout Durham and commented on the celebration of Israel's 60th Birthday.

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Mayor Bell asked the City Manager, City Attorney and City Clerk for priority items. City Manager Baker provided Council with an additional handout for agenda item #17 [Raleigh–Durham Airport Authority-Federal Aviation Administration Grant Offer]; read the following revised motions for Authorization of Two-Thirds Bonds--to set a public hearing on June 2, 2008 to receive public comments on the two-thirds bonds; to adopt the orders authorizing not exceeding \$4,335,000 Street and Sidewalk Improvement Bonds, \$2,445,000 Culture and Recreation Bonds and \$5,570,000 Public Safety Facility Bonds of the City of Durham, North Carolina; and to adopt a Resolution Providing for the Issuance of the Two-Thirds Bonds. Also, he gave an update on the water supply providing Council with a copy of the following memo.

CITY OF DURHAM, NORTH CAROLINA

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MEMO TO: Patrick Baker, City Manager

FROM: Vicki Westbrook, Deputy Director, Water Management

SUBJECT: Water Supply Update, May 19, 2008

The NC Drought Monitoring Advisory Council weekly map update (5/13/08) continues to designate most of Durham County as “Abnormally Dry,” with a small portion of the County still in D – 1, Moderate Drought status. Water restrictions were relaxed to *Stage III, Moderate Mandatory Conservation* effective Wednesday, April 2nd. Watering is now allowed two days per week; however no marked increase in usage has been noted on allowed days of watering (Wednesdays and Saturdays) to date. In a month to month comparison for May to date, there is a reduction of 24% as compared to the May ’07 average of 31.18 MGD. The goal is to keep water usage in the range of 10 to 12% lower than last year at the same time, while accounting for increased usage due to cooling towers and allowed irrigation.

Current status:

Recent rain events have refilled both lakes, however after rain events, stream flows are beginning to flow at more normal levels. Current lake levels:

- Lake Michie is now **full** at 341.00 MSL
- Little River Lake is just below full at **354.70** MSL (*conducting dam maintenance)
- The combined lake capacity is now **100%** - up from a low of 11% on 12/23/07.

Days of Supply of using 30-day running average of **22.89 MGD***

- Premium water remaining based on usable storage in Lake Michie and Little River Lake of **6.349 BG** is **275 days**
- Teer Quarry is now off line, with **16 days** of supply available
- 1.2 Billion Gallons (below the intakes of Little River & Lake Michie) = **52 days**
- **Total days = 343**
- Please note all calculations assume no additional rainfall and zero stream flows

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The 30-day average demand includes all demand exerted on the two supply lakes. There is no offset by Cary purchases and the entire 30-day running average is without supplemental water suppl. Total days of supply reflects loss of two days of supply in seven calendar days.

Additional information:

- Teer Quarry is now off line; approximately 375 million gallons still available for use.
- Staff pumped approximately 56 MG from the Eno River in April and 8 MG in May to day while meeting the seasonal requirements (March through May) to maintain at least 30 cubic feet per second beyond the pump station.
- Staff continues to work with Town of Cary staff to increase the pumping capacity of the #1 interconnection up from 2 MGD to 4 MGD. From October through March (Cary pumping is now offline), purchase of water from Cary totaled 337.53 MG. Upon completion, the second Cary interconnection could provide in up to 7 MGD, allowing full access of our 10 MGD Jordan Lake allocation.

Treasury Manager John Allore gave an explanation of Agenda Items 29 and 30.

A motion was made by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to approve the City Manager's priority items.

Interim City Attorney Karen Sindelar recommended that Agenda Items 29 [Installment Financial Series 2008] and 30 [Authorization of Two-Thirds Bonds] be placed on the General Business Agenda to allow her to supplement those resolutions and motions at the time of discussion.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Clement to accept the request of Interim City Attorney Sindelar regarding the City Manager's priority item was approved at 7:50 p.m. by the following vote: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Council Member Clement made comments on the issue of water conservation and asked staff to provide information on water savings at the May 22, 2008 City Council Work Session.

Deputy City Clerk Linda Bratcher reminded Council that a valid protest petition has been filed against GBA# 34 [Zoning Map Change - Fairfield at Hillandale [Z07-39].

MOTION by Council Member Clement seconded by Council Member Brown to accept the City Manager's priority items was approved at 7:54 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Mayor Bell asked if any citizen(s) or council member(s) wanted to pull any items from the Consent Agenda. No items were pulled from the Consent Agenda.

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MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to approve the Consent Agenda was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[CONSENT AGENDA]

SUBJECT: VOLUNTARY ANNEXATION PETITIONS RECEIVED BY JANUARY 1, 2008

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to adopt resolutions scheduling public hearings for Monday, June 2, 2008 to receive citizen comments concerning voluntary petitions for the following properties to be annexed with a recommended effective date as indicated below was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

- a) FY2005-14 Brightleaf Commons - **Resolution #9555**
- b) FY2007-05 Ravenstone Phase 3 – **Resolution #9556**
- c) FY2007-13 Doc Nichols - **Resolution #9557**
- d) FY2008-02 Davis Park Retail - **Resolution #9558**
- e) FY2008-07 Freeman Road/Roberts Property - **Resolution #9559**
- f) FY2008-08 Bivins Creek - - **Resolution #9560**
- g) FY2008-11 EPCON - - **Resolution #9561**
- h) FY2008-12 Tract 3 Outparcel at Brightleaf - - **Resolution #9562**
- i) FY2008-13 Duke School Expansion - - **Resolution #9563**
- j) FY2008-14 Currin Oaks - - **Resolution #9564**
- k) FY2008-15 Cruz Property - - **Resolution #9565**
- l) FY2008-16 Elementary School B - - **Resolution #9566**
- m) FY2008-17 Biggerstaff & Crawley - **Resolution #9567**

All petitions above to be effective from and after June 30, 2008.

SUBJECT: CAPITAL PROGRAM ADVISORY COMMITTEE - APPOINTMENTS

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to appoint Deon Forde, (PAC 3) and J. Houston Barnes (Financial Management) and to reappoint Charles D. Watts, Jr. (PAC 5) and Harold L. Chestnut (PAC 4) to the Capital Program Advisory Committee with terms to expire on March 31, 2010 was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM PLANNING COMMISSION - APPOINTMENTS

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MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to appoint Harry C. Monds (District 2) and to reappoint Benjamin Greene to the Durham Planning Commission with the terms to expire on June 30, 2011 was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CITIZENS ADVISORY COMMITTEE - APPOINTMENT

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to appoint Gil Bernie Stewart to the Citizens Advisory Committee with the term to expire on June 30, 2010 was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: HUMAN RELATIONS COMMISSION - APPOINTMENTS

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to appoint Suzann E. Riddle to represent Non-Minority Female (term expires on June 30, 2011) and Alba Onofrio to represent Other Racial Minority Group Member Female (term expires on June 30, 2009) to the Human Relations Commission was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: DURHAM HISTORIC PRESERVATION COMMISSION - APPOINTMENT

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to appoint Jennifer Mitchell to the Durham Historic Preservation Commission representing Historian with the term to expire on September 1, 2010 was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CABLE TV ADVISORY BOARD - APPOINTMENT

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to appoint Angie Elkins to the Cable TV Advisory Board with the term to expire on October 31, 2008 was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: DURHAM HOUSING AUTHORITY BOARD OF COMMISSIONERS -
RECEIPT AND ACCEPTANCE OF APPLICATIONS**

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to receive and accept applications for a citizen to fill one (1) vacancy on the Durham Housing Authority Board of Commissioners with the term to expire on September 28, 2011 was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: BID REPORT – MARCH 2008

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of March 2008 was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Date: April 4, 2008

To: Patrick W. Baker, City Manager

Through: Wanda S. Page, Deputy City Manager
Keith Herrmann, Interim Finance Director

From: Joseph W. Clark, CLGPO, Purchasing Manager

Subject: Bid Report – March 2008

Recommendation

To receive a report and to record into the minutes bids which were acted upon by the City Manager during the month of March 2008.

Apparatus, Supplies, Materials, Equipment, Construction and Repairwork:

1. Bid: Thermoplastic Traffic Paint

Purpose of Bid: To provide the traffic sign shop with traffic paint

Comments: 44,000 lbs each @ .37385 of white and yellow

Opened: February 29, 2008

Bidders:	Dobco	*\$32,898.80
	Manchester, GA	
	Swarco Industries	\$33,044.00

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Columbia, TN

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	48		# Black Males	17	35%
Total # Females	17	35%	# White Males	9	20%
Total # Males	31	65%	# Other Males	5	10%
			# Black Females	1	5%
			# White Females	15	25%
			# Other Females	1	5%

The SDBE Data Base was used in the solicitation of bids for this item.

2. Bid: One (1) Small School Bus

Purpose of Bid: To provide the Parks & Recreation Department with a bus

Comments:

Opened: March 5, 2008

Bidders:	White's Tractor & Truck, Inc.	* \$87,450.00
	Wilson, NC	
	Carolina International Trucks	\$96,477.00
	Columbia, SC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	175		# Black Males	9	5%
Total # Females	25	14%	# White Males	139	79%
Total # Males	150	86%	# Other Males	2	1%
			# Black Females	0	0%
			# White Females	25	14%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

3. Bid: One (1) Swaploader Hooklift System

Purpose of Bid: To provide the Street Maintenance Division with a Brine Application system

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Comments:

Opened: February 28, 2008

Bidders: R/S Truck Body Company * \$72,224.00
Ivel, KY
GVM Snow Equipment \$79,526.66
Biglerville, PA

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	85		# Black Males	0	0%
Total # Females	6	7%	# White Males	78	92%
Total # Males	79	93%	# Other Males	1	1%
			# Black Females	0	0%
			# White Females	6	7%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

4. Bid: Trailer Mounted 4" Trash Pump

Purpose of Bid: To provide the Water & Sewer Maintenance Division with a Trailer mounted 4" Trash Pump

Comments:

Opened: March 9, 2008

Bidders: Godwin Pumps of America * \$20,487.92
Garner, NC
Heartland Pump Rental & Sales, Inc. \$23,567.00
Centerville, IL

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	274		# Black Males	3	1%
Total # Females	60	22%	# White Males	204	74%
Total # Males	214	78%	# Other Males	7	3%
			# Black Females	1	1%
			# White Females	58	20%

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Other Females 1 1%

The SDBE Data Base was used in the solicitation of bids for this item.

5. Bid: **Estimated Annual Fire Department Dress Uniform Jackets and Accessories**

Purpose of Bid: To provide the Fire Department with Dress Uniform Jackets and Accessories.

Comments:

Opened: January 18, 2008

Bidders:	American Uniform Sales	*\$31,834.00
	Fayetteville, NC	
	NAFECO, Inc.	\$32,382.00
	Decatur, AL	
	Showfety's Inc.	\$32,768.00
	Greensboro, NC	
	Century Uniforms	\$36,688.50
	Raleigh, NC	

*Awarded based on: ☒ Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	17		# Black Males	0	0%
Total # Females	13	74%	# White Males	2	13%
Total # Males	4	26%	# Other Males	2	13%
			# Black Females	2	13%
			# White Females	10	55%
			# Other Females	1	6%

The SDBE Data Base was used in the solicitation of bids for this item.

6. Bid: **Two (2) Police Patrol Vehicles**

Purpose of Bid: To provide the Police Department with Two (2) Police Patrol Vehicles

Comments:

Opened: March 10, 2008

Bidders:	Vic Bailey Ford	* \$42,342.00
	Spartanburg, SC	

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University Ford
Durham, NC

\$42,748.00

*Awarded based on: ☒ Low Bid ☐ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	80		# Black Males	9	11%
Total # Females	15	19%	# White Males	56	70%
Total # Males	65	81%	# Other Males	0	0%
			# Black Females	0	0%
			# White Females	15	19%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

7. **Bid:** **Two Digital In-Car Video Systems**

Purpose of Bid: To provide the Police Department with In-Car Video Systems

Comments: The City has standardized on the Kustom Signals brand of In-Car Video systems

2 systems @ \$5,302.00 each

Opened: March 17, 2008

Bidders: Kustom Signals, Inc. * \$10,604.00
Lenexa, KS

*Awarded based on: ☐ Low Bid ☒ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	197		# Black Males	1	1%
Total # Females	96	49%	# White Males	97	49%
Total # Males	101	51%	# Other Males	3	1%
			# Black Females	1	1%
			# White Females	91	46%
			# Other Females	4	2%

The SDBE Data Base was used in the solicitation of bids for this item.

8. **Bid:** **Warehouse Rack Storage System**

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Purpose of Bid: To provide the Police Department with warehouse shelving for the evidence and storage unit

Comments:

Opened: March 4, 2008

Bidders:	Brame Office Products	* \$13,300.00
	Durham, NC	
	Gregory Grier, Inc.	\$22,000.00
	Kernersville, NC	

*Awarded based on: X Low Bid _____ Other (See Comments)

WORKFORCE STATISTICS
CORPORATION STATISTICS

Total Workforce	37		# Black Males	10	27%
Total # Females	12	32%	# White Males	15	41%
Total # Males	25	68%	# Other Males	0	0%
			# Black Females	2	5%
			# White Females	10	27%
			# Other Females	0	0%

The SDBE Data Base was used in the solicitation of bids for this item.

Sufficient funds were available at the time of the award. The Administration recommends acceptance of the above bids denoted by an asterisk (*).

**SUBJECT: SETTING PUBLIC HEARING TO CONSIDER ORDERING
PETITIONED IMPROVEMENT**

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to accept a Certificate of Sufficiency from the Director of Public Works for the following petition; and

To adopt a resolution setting a public hearing for June 2, 2008, to consider ordering the following improvement was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Curb, Gutter and Paving, Water and Sewer Laterals on Ardmore Drive from Cook Road to the West Property Line of PIN 0820-18-41-3473

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**SUBJECT: SETTING PUBLIC HEARINGS FOR THE CONFIRMATION OF
ASSESSMENT ROLLS**

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to adopt a resolution setting a public hearing for June 2, 2008, for confirmation of each of the following assessment rolls was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Curb, Gutter and Paving on Chalk Level Road from the East Property Line of Tax Map 298-1-5 to Shaftsbury Street;

Water and Sewer Laterals on Chalk Level Road from the East Property Line of Tax Map 298-1-5 to Shaftsbury Street;

Water Main on Chalk Level Road from the East Property Line of Tax Map 298-1-5 to Shaftsbury Street;

Curb, Gutter and Paving on Chalk Level Road from Shaftsbury Street to Stadium Drive;

Water and Sewer Laterals on Chalk Level Road from Shaftsbury Street to Stadium Drive;

Water Main on Chalk Level Road from Shaftsbury Street to Stadium Drive;

Curb, Gutter and Paving on Edgerton Drive from Ed Cook Road to the West Property Line of Tax Map 566-3-23;

Water and Sewer Laterals on Edgerton Drive from Ed Cook Road to the West Property Line of Tax Map 566-3-23; and

Water Main on Edgerton Drive from Ed Cook Road to the West Property Line of Tax Map 566-3-23.

**SUBJECT: RETIREMENT HEALTH SAVINGS (RHS) PLAN - ICMA RETIREMENT
CORPORATION**

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to approve the Affirmative Statement for Adoption of the Vantagecare Retirement Health Savings (RHS) Plan;

To approve the RHS Plan Adoption Agreement;

To approve the Administrative Services Agreement with ICMA-RC; and

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To authorize the City Manager or his designee to execute all appropriate documents and take the necessary administrative actions to establish a retiree welfare benefits plan in the form of a Retirement Health Savings Plan with ICMA Retirement Corporation was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: SAM'S CLUB FOUNDATION GRANT AWARD

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to accept the Sam's Club Foundation Grant by executing the grant documents; and

To adopt the Sam's Club Foundation Grant Project Ordinance in the amount of \$1,000.00 was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13595

**SUBJECT: LEASE AND LICENSE AGREEMENT WITH CELLCO PARTNERSHIP
D/B/A VERIZON WIRELESS**

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to execute the Lease and License Agreement with Cellco Partnership d/b/a Verizon Wireless to attach Cellular Antenna to Ellis Road Water Tank, 801 Ellis Road, Parcel ID #S 156775 and 156779; and

To authorize the City Manager to make changes to the agreement provided such changes do not materially affect the intent and purpose of the agreement was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: OLD LYON PARK CENTER RENOVATION - SKANSKA USA
BUILDING INC.**

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to authorize the City Manager to negotiate and execute an Amendment No. 2 with Skanska USA Building Inc. for construction of the Old Lyon Park Recreation Center Renovation project if the Guaranteed Maximum Price (GMP) does not exceed \$766,885.00;

To establish a project contingency equal to the difference between \$833,885.00 which is the full amount budgeted for construction phase services, and the final GMP; and

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To authorize the City Manager to negotiate and execute change orders on the Old Lyon Park Recreation Center Renovation project, provided the total project cost does not exceed the amount budgeted for construction phase services plus the project contingency was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: AMENDMENT TO CONTRACT FOR DESIGN, DEVELOPMENT, CONSTRUCTION DOCUMENTATION AND CONSTRUCTION OBSERVATION FOR EXTENDING NORTH SOUTH GREENWAY TRAIL FOR WARREN CREEK AND THIRD FORK CREEK; CMAR CONTRACT AMENDMENT FOR CONSTRUCTION SERVICES FOR THIRD FORK CREEK

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to adopt an ordinance amending the General Capital Improvement Project Ordinance, Fiscal year 2007-2008, the same being Ordinance # 13428 for the purpose of increasing the total appropriation for the design and construction of the Third Fork Creek Trail by \$159,200.00;

To adopt a Resolution Exempting the Third Fork Creek Trail Project from G.S. 143-64.31;

To authorize the City Manager to execute a contract amendment to the Contract for Design Development, Construction Documentation and Construction Observation for extending North South Greenway Trail for Warren Creek and Third Fork Creek with Coulter Jewell Thames, PA in an amount not to exceed \$183,037.00 so that the total dollar amount will not exceed \$495,037.00;

To authorize the City Manager to make changes to the contract before executing it if the changes do not increase the fee to be paid by the City and do not decrease the goods and services to be provided to the City;

To establish a project contingency in the amount of \$18,304.00; and

To authorize the City Manager to negotiate and execute change orders on the Contract for Design Development, Construction Documentation and Construction Observation for extending North South Greenway Trail for Warren Creek and Third Fork Creek with Coulter Jewell Thames, PA, provided the total project cost does not exceed the amount budgeted for design phase services plus the project contingency;

To authorize the City Manager to negotiate and execute an "Amendment No. 2" with Skanska USA Building for construction of the Third Fork Creek Trail Project, if the Final Guaranteed Maximum Price (GMP) does not exceed \$1,848,083.00;

To establish a project contingency equal to the difference between \$1,848,083.00 which is the full amount budgeted for construction phase services, and the final GMP; and

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To authorize the City Manager to negotiate and execute change orders on the Third Fork Creek Project provided the total project cost does not exceed the amount budgeted for construction phase services was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13596

Resolution #9568

SUBJECT: RALEIGH-DURHAM AIRPORT AUTHORITY-FEDERAL AVIATION ADMINISTRATION GRANT OFFER

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to accept the Federal Aviation Administration Grant Offer in an amount of \$3,483,220.00 for Runway 5R-23L Pavement Rehabilitation and Airfield Lighting Improvements, FAA AIP Grant Number 3-37-0056-34-2008; and

To authorize the City Manager to execute the Grant Agreement; and

To authorize the City Attorney to give assurances with respect thereto was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: PLANNING COMMISSION ANNUAL REPORT FOR 2007

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to receive the Planning Commission Annual Report and to give future consideration to the issues of concern was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: USE OF FEDERAL ASSET FORFEITURE FUNDS IN AN AMOUNT NOT TO EXCEED \$60,000 FOR THE PURCHASE OF COMPUTER SOFTWARE TO BE USED IN THE CRIME ANALYSIS UNIT

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to authorize the use of Federal Asset Forfeiture Funds in an amount not to exceed \$60,000.00 for the purchase of computer software to be used in the Crime Analysis Unit was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: DEVELOPMENT REVIEW PROCESS IMPROVEMENT SCHEDULE
FOR 2008**

MOTION by Council Member Catotti seconded by Mayor Pro Tempore Cole-McFadden to review and provide comments on the proposed schedule for additional time reductions in the development review process; and

To consider the first round of specific recommendations for reducing development review processing time was approved at 8:03 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

The City Council disposed of the following agenda items at the May 8, 2008 Work Session:

35. North Carolina Biotechnology Center

To receive comments from Norris Tolson regarding the North Carolina Biotechnology Center.

(Comments were received at the May 8, 2008 Work Session)

36. Trips for Kids – Triangle

To receive comments from Andrea Hundredmark regarding Durham's Fragile Youth.

(Citizen did not appear at the May 8, 2008 Work Session – per Citizen's request)

37. Presentation of Public Education Plan For Tiered Rate

To receive a report regarding the Public Education Plan for Tiered Rates and update on Hardship Fund capabilities.

(Presentation to be presented at the May 22, 2008 Work Session)

39. Resolution Opposing a Moratorium on City Initiated and Voluntary Annexations and Supporting North Carolina's Progressive Annexation Laws

To adopt a Resolution Opposing a Moratorium on City Initiated and Voluntary Annexations and Supporting North Carolina's Progressive Annexation Laws.

(This item was approved at the May 8, 2008 Work Session with a vote of 6/0)

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[GENERAL BUSINESS AGENDA – PUBLIC HEARING]

SUBJECT: ZONING MAP CHANGE – FAIRFIELD AT HILLANDALE (Z07-39) – FF DEVELOPMENT, LP – 2800, 2951 BERTLAND AVENUE, AND 2619 OMAH STREET, SOUTH SIDE OF BERTLAND AVENUE, WEST OF OMAH STREET, NORTH OF I-85 AND EAST OF HILLANDALE ROAD

To receive public comments on the zoning map change for Fairfield at Hillandale (Z07-39);

To adopt an ordinance amending the Unified Development Ordinance, the same being Chapter 24 of the Durham City Code, by taking the described property in zoning map change case Z07-39 out of RS-M, RU-5 and CG and placing same in and establishing same as RU-M(D) and CG(D); and

To adopt as support for its action on the proposed zoning map change the determinations that the action is consistent with the Comprehensive Plan and is reasonable and in the public interest in light of information presented in the public hearing and in the accompanying agenda materials; or

Alternatively, in the event that a motion to approve the item fails, the Council adopts as support for its action on the proposed zoning map change the determination that, notwithstanding its consistency with the Comprehensive Plan, the request is neither reasonable nor in the public interest in light of information presented in the public hearing and in the accompanying agenda materials.

Staff Recommendation: Approval, based on consistency with the Comprehensive Plan, and considering the information contained in this report.

Planning Commission Recommendation and Vote: Denial, 10-1 on February 12, 2008. The Planning Commission finds that the ordinance request is consistent with the adopted Comprehensive Plan. The Commission does not believe this request is reasonable or in the public interest in light of the information in the staff report and comments received during the public hearing. The Commission recommends denial based on inconsistency with neighboring land uses, problems with traffic congestion, concerns regarding impacts on the environment and opposition from the community.

[The site is located at 2800, 2951 Bertland Avenue, and 2619 Omah Street, south side of Bertland Avenue, west of Omah Street, north of I-85 and east of Hillandale Road. PIN's: 0813-20-90-6113; 0823-17-00-0360, -3106)]

Note: Valid protest petition filed against this rezoning request.

Mayor Bell opened the public hearing.

City/County Planning Director Steve Medlin certified that all notifications have been carried out in accordance with the provisions of the unified development ordinance and state statutes. He

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briefed Council on the staff report noting the request is to change the zoning for a multi-family apartment project with a maximum of 240 units and a density of 14.48 dwelling units per acre. He stated the zoning would be changed for the apartments with parking on the remaining 1.5 acres currently zoned CG to CG(D) and used for parking. He noted the request is consistent with the future land use designation, objectives, and policies of the Comprehensive Plan.

Further, Mr. Medlin stated there would be a development plan to include the following committed elements highlighted on pages 2 and 3 of the staff report: a maximum number of units not to exceed 240, structures will be limited to three-stories in height; maximum impervious surface shall not exceed 70%; no structures are to be constructed in the CG portion of the site; tree coverage, open space and community amenities to include a club house, swimming pool, play area with play structures, \$10,000 donation to Durham Public Schools to be paid at the time of site plan approval; 50-foot noise mitigation buffer adjacent I-85, increased buffers along Omah and Bertland Avenue; 6-foot high decorative fence--wrought iron or similar type of material along Omah and Bertland frontage; improve unimproved portions of Bertland Avenue and Omah Street will be required to be built in their entirety to the City of Durham standards; the existing cross section of Reichard Street and Albany Street will be improved to a strength equal to minimum City of Durham standard; curb, gutter and pavement along Bertland Avenue ; 5-foot wide sidewalk along the south side of Bertland Avenue, and three speed humps subject to approval by the City of Durham Transportation Division on Omah Street and Bertland Avenue.

He reported the site has a very limited number of environmental constraints including a stream and some wetlands; however, none of these would preclude the potential development of this site pursuant to provisions of the unified development ordinance and the site can be served by proper infrastructures. He stated staff is recommending approval of this request based on the consistency with the Comprehensive Plan and the Planning Commission recommended denial based on inconsistency with neighboring land uses, problems with traffic congestion, concerns regarding impacts on the environment and opposition from the community.

Proponents

Patrick Byker, representing the applicant, spoke in support of this request. He reported this has been a very controversial proposal which stems from traffic issues. He reported NCDOT is proposing a major improvement to Hillandale Road and should be releasing its public hearing map for that project in the next couple of weeks. He felt everyone concerned about this project will need to see that map showing NCDOT's design for Hillandale Road in order to make an informed decision. He stated in addition, if the Council wishes, the applicant would be willing to submit supplemental traffic information regarding the impact of this project on the local streets for the City's Transportation Division to review. He asked Council to support a two-cycle deferral regarding this matter so that we can move forward based on definite and accurate information about traffic issues in this section of Durham-specifically where traffic signals and median breaks will be installed on Hillandale Road. He outlined the important reasons for supporting this zoning map change commenting on the Durham Comprehensive Plan which allows for higher density than the applicant is proposing; proactive meeting held with the neighbors; provided Council with handouts of the layout of project; objectives from the Comprehensive Plan --- 2.2.8 and 4.3.2 which state the support of infield development. He

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urged Council to support the continuance of this item which will further these objectives of the Comprehensive Plan as well as the Green House Gas Reduction Plan since this development will place high quality housing less than one and one-half mile from Duke University Center--our largest employer.

Joan Stephenson, of 2901 Fawn Avenue, spoke in support of this item stating this project would be a positive change to the neighborhood and stated they do not see the traffic problems that are presented by the opponents.

Opponents

Laura Sushi, of 2710 Omah Street, spoke against this zoning map request. She made comments regarding the neighborhood meetings and information packets left at the Mayor's Office supporting her opposition. She expressed concern with traffic and mentioned the current zoning is in compliance with the Comprehensive Plan. Also, she stated the applicant cannot guarantee that they will rent to people who work for Duke, and expressed concern with putting a fast food restaurant on land that is land lock.

Harvey Ann Goodwin, of 2715 Leyburn Circle, spoke against this request expressing concern about the increase in traffic, crime and reduction in property value if this project is built. She mentioned that this is not a luxury apartment and would be devastating for their neighborhood.

Jack Dailey, of 1914 Dartmouth Drive, spoke against this request. He expressed concern about the traffic, quality of the project and safety concerns. He stated a change would not benefit their neighborhood.

Becky Schmitz, of 2900 Alabama Avenue, spoke in opposition to the zoning map change raising traffic and safety concerns. She stated the traffic created by this project would not only be an inconvenience, but would be dangerous for the residents and children to walk down the street.

Kathryn Hesse, of 3027 Alabama Avenue, spoke against this zoning map change commenting on the increase in the amount of traffic that would be created by this project.

Jonathan Smith, of 2900 Alabama Avenue, spoke against this request raising a concern with the traffic.

Miranda Terry, of 3024 Omah Street, spoke in opposition to this zoning map change expressing concerns with the traffic and safety of the children in the neighborhood.

Anthony Moore, of 2709 Omah Street, spoke against this item stating the neighbors are going to have more traffic and problems than they can deal with.

Alex Rota, of 2010 Dartmouth Drive, spoke against this item. He felt that profit was the reason for this project.

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Linda Tilley, of 2802 Fawn Avenue, spoke in opposition to this zoning map change expressing concern for the safety of the children and traffic issues.

Rebuttal

Patrick Byker, representing the applicant, addressed the residents' concerns stating it is very clear that there is a traffic problem today and this is not a situation that this project would create and mentioned the City does not have the resources to address the problems. He stated the applicant would like to provide for Council and the public with an additional traffic study to show what specific traffic impacts would be on each individual street --Omaha, Bertrand, Fawn and Alabama—in which a two cycle deferral is needed to accomplish this. Also, he explained handouts provided to Council on traffic indicating the traffic on Carver Street would be worse if this project is not implemented. He noted very similar apartments in the Croasdaile development have had no effect on property values on the single family homes in the neighborhood and in terms of land value, this project will not have any detrimental impact, it is a high quality project and would like to have definite information from NCDOT to know the traffic signal patterns and median breaks will be on Hillandale Road to determine if the applicant would need to add additional committed elements. He stated the applicant would be providing pedestrian access from these apartments all the way to Hillandale Road and across into Hillandale Plaza. He asked for a two-cycle deferral to seek out more information from NCDOT and provided Council with letters of support.

Mayor Pro Tempore Cole-McFadden asked the applicant questions relative to the units that will be available for rent and the amount.

Patrick Byker, representing the applicant, replied a two-bedroom/two bathroom will rent for approximately \$1,200 a unit.

Bryan Condie, of Fairfield Residential, gave a description of the units that will be a part of this project. He stated a majority of the units will be 2-bedroom, 2 bath; 1-bedroom and there would be 20 or less 3-bedroom units and the price for a one-bedroom unit will be around \$900.

Mayor Pro Tempore Cole-McFadden asked the applicant out of all the developments built, how many have they sold to a managing company.

Bryan Condie, of Fairfield, replied that they do sell to a managing company, but not until five to ten years down the road, but they also hold on to some of their properties as well.

Mayor Pro Tempore Cole-McFadden asked the developer how the development will be maintained after they have been built commenting on the beautiful developments initially and with the change in ownership--the maintenance portion becomes less of a priority which brings deterioration to the neighborhood.

Bryan Condie, of Fairfield, made comments on the committed elements that the applicant would be providing.

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Council Member Ali asked the applicant about the length of the sidewalk and will Bertland Avenue be developed all the way.

Patrick Byker, representing the applicant, stated the sidewalk will go from Omah, across Bertland all the way to Hillandale Road. Patrick Byker replied yes to developing Bertland Avenue.

Council Member Ali asked the applicant why the property valuations would not go down.

Patrick Byker, representing the applicant, stated the applicant has apartments that rent for similar rates at the Croasdaile development which is across the street from homes ranging from a half-million dollar and up and the property owners have not seen a decrease in their property value. In addition, he stated apartments renting at this level do not have an adverse impact on single-family home prices.

Council Member Ali asked staff to explain the decrease of 46 daily trips.

Wesley Parham, of the Public Works Department, stated the calculations assume what would be the most intense development that could be allowed on the site under the existing zoning districts and staff compared it against the traffic generation rate of the proposed use of 240 units.

Council Member Ali asked staff would NCDOT's plan increase traffic or reduce it.

Wesley Parham, of the Public Works Department, stated it would have no effect on the trip generation rate of this particular site.

Patrick Byker, representing the applicant, informed Council that the applicant would be providing 12,000 feet of sidewalk and addressed the reason for the two-cycle deferral.

Council Member Woodard asked staff to give an update on changes to the revised public hearing map.

Wesley Parham, of the Public Works Department, discussed significant changes to the last version of the revised public hearing map that was held in December at the School of Science and Math which shows no median breaks along Hillandale between interstate 85 and Carver Street; a proposed full movement signalized intersection at Bertland; left over movements at Fawn Avenue and into the Hillandale Staff Development Center on the corner of Carver and Hillandale; and eliminating a previously proposed southbound right turn lane on Hillandale at Carver Street.

Council Member Woodard asked the applicant to consider issuing no certificates of occupancy on the property until the completion of all Hillandale Road improvements.

Patrick Byker, representing the applicant, stated if the two-cycle deferral is granted, they would review the map before providing a response.

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Since a valid protest petition has been filed against this item, Interim City Attorney Karen Sindelar explained that it would take six votes of Council to approve this zoning map change.

Council Member Brown made comments on the photographs of the Hong Kong restaurant--cars parked along the median of the street.

Council Member Woodard made comments on the conversation he had with the Police Captain of the area about doing more patrols and enforcement.

City/County Planning Director Steve Medlin discussed what could be done relative to the issue of enforcement regarding the parking in the median and stated he would follow up on the expansion of parking in the rear area.

Council Member Brown asked if a fast food restaurant could be placed on the site.

Patrick Byker, representing the applicant, pointed out that there is commercial zoning on the property in place today. He stated one of the committed elements is the applicant would have no structures on the commercially zoned section of this site.

Laura Sushi, of 2170 Omah Street, made comments on the maximum possible use for anything commercial which could be a fast food restaurant with a drive thru.

Earl Lewellyn, representing the applicant, summarized in looking at the maximum worst case use, a fast food restaurant or a convenient store would be the worst case, but is unlikely that it would be marketable given the location and access of the commercially zoned property. He stated the applicant assumed a hotel on that property instead and in comparing the traffic generation of the existing zoning to the proposed zoning--the proposed zoning would be less by 283 trips daily.

Council Member Brown asked the applicant what would be the possibility of reducing the number of units to lesser 240.

Patrick Byker, representing the applicant, stated given the list of committed elements and over \$700,000 traffic improvements--the applicant would need to maintain this development at 240 units given what the comprehensive plan calls for.

Council Member Catotti asked staff to clarify at the existing zoning in the residential suburban multifamily designation how many units would be allowed at the 11.98 per acre density.

City/County Planning Director Steve Medlin replied 98.

Mayor Bell asked the applicant why a traffic impact analysis [TIA] was not prepared for this project and if the applicant could do a TIA.

Patrick Byker, representing the applicant, stated it was below the threshold where a TIA was required.

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Wesley Parham, of the Public Works Department, explained that the unified development ordinance states that a TIA is required if the site will generate 150 or more peak hour trips and 149.65 is not 150.

Council held discussion on the threshold of 149.65 not being 150.

Mayor Bell asked the applicant what would have been the impact of providing the TIA.

Patrick Byker, representing the applicant, stated a TIA would have delayed the process and would have not required any more traffic improvements put forward that staff has reviewed.

Council held discussion on threshold for a traffic impact analysis and reason for deferral.

Patrick Byker, representing the applicant, stated the applicant could provide additional traffic information that would show the dispersion of traffic coming out of complex by the end of the week.

Mayor Bell raised a concern that there was no traffic impact analysis.

Council Member Clement asked the applicant about the status of Loehmann's Plaza.

David Bieshar noted it is his understanding from the owner of the shopping center that they are trying to redevelop the shopping center, have an anchor tenant of Harris Teeter, keep some of the existing structures or tear down some of existing structures and build new ones, but this project is dependent on what is happening with the map for Hillandale Road.

Council Member Clement stated the Council would need to know what is going to happen at this shopping center which should have an impact on the TIA.

Interim City Attorney Sindelar asked the applicant if pictures distributed to Council were shown to the Planning staff.

Patrick Byker reported they shared the pictures at the April 29, 2008 neighborhood meeting, but not to staff.

Interim City Attorney Sindelar asked for clarification on the sidewalk renderings.

City/County Planning Director Steve Medlin made comments on the code requirement for sidewalks and asked the applicant to indicate if the renderings and elevations submitted this evening were committed elements.

Patrick Byker, representing the applicant, replied yes.

City/County Planning Director Steve Medlin asked that this item be continued until the August 4, 2008 City Council Meeting in order to have sufficient time to evaluate the traffic impact

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analysis.

Patrick Byker, representing the applicant, stated the applicant is not submitting a traffic impact analysis, but would provide a breakdown of traffic impacts on the local streets generated by this project by the end of this week.

Mayor Bell stated his concern is the decision that triggered whether to do, or not to do a traffic impact analysis.

City/County Planning Director Steve Medlin reported the applicant's committed elements have limited the maximum stories of buildings to three-stories, there are a pallet of design elements associated with elevations that were handed out this evening that include material, color and roofing types which will be a part of the committed elements that they will be held to if this project is approved by Council with a development plan. There is no commitment in terms of the number of building units. He mentioned any significant deviation in density below a 20% reduction would require a new development plan as a new rezoning so the applicant could reduce the number of units to 190.

Council held discussion on relevance of TIA without NCDOT map, enhancement of Loehmann's Plaza and safety issue for children.

A motion was made by Council Member Clement seconded by Council Member Brown to continue the public hearing for this item to the August 4, 2008 City Council Meeting.

Mayor Bell made a friendly amendment to continue the public hearing to the May 22, 2008 City Council Work Session to see if his schedule would permit him to be at the August 4, 2008 City Council Meeting.

MOTION by Council Member Clement seconded by Council Member Brown to continue the public hearing to the May 22, 2008 City Council Work Session was approved at 9:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

At this time during the meeting, Mayor Bell recognized Dr. Victor J. Dzau, Chancellor for Health Affairs at Duke University, and President & Chief Executive Officer of Duke University Health System, who presented the City of Durham with a check in the amount of \$250,000 to support the renovation of the Holton Middle School into a new community center serving Northeast Central Durham which also will be home to the Holton Wellness Center.

Mayor Bell thanked Dr. Dzau and Duke University Health System for their contribution and support.

[GENERAL BUSINESS AGENDA]

SUBJECT: PROPOSED FISCAL YEAR 2008-2009 BUDGET AND FISCAL YEAR 2009-2014 CAPITAL IMPROVEMENT PLAN

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To receive a presentation on the proposed Fiscal Year 2008-2009 Budget and Fiscal Year 2009-2014 Capital Improvement Plan.

City Manager Patrick Baker made comments on the preliminary 2008-09 budget highlighting the following:

- Revaluation year - tax rate is 50.05 cents
- Proposing tax rate of 56 cents
- Fully implementing a comprehensive yard waste program
- Replace \$60 yearly fee and would be universal
- Increasing Neighborhood Revitalization Fund
- Additional \$200,000 to address critical needs of Housing
- Pay and classification study - \$1.5 million
- Bus fleet – adding 4 hybrids
- Fuel – additional funding
- Hiring code enforcement and housing inspectors
- Bond debt – \$1.3 million
- Leaf vacuum pilot program – 2 trucks
- 10 Year Plan to End Homelessness – continued funding
- Year Round Youth Work Experience
- 90 New positions
- Youth programs
- Development Review
- Reorganization of the Planning Department
- New fire station in North Durham
- 20 police officers

Also, he gave an overview of the power point presentation to include the budget priorities, things that have been accomplished; total revenues – all funds; total proposed budget – all funds; overall budget – general fund; average tax bill, general fund spending by function; crime – public safety a top priority; youth programs; targeting distressed neighborhoods; housing code enforcement; capital improvement plan; CORE SERVICES - Streets and Sidewalks; Development Review Process; Solid Waste; Durham Area Transit Authority; fleet, fiscal accountability; City employees; protecting the environment; and non-city agency funding;

He stated a budget schedule has been provided to Council and the first budget hearing will be held May 27, 2008.

Council Member Clement requested that Youth Services be a part of the organizational chart.

Mayor Pro Tempore Cole-McFadden asked staff to provide information on the bus maintenance during DATA's budget discussion. Relative to youth services, she requested that Council be provided with copies of the Non-City Agency application and evaluation forms from the panel.

Council Member Clement congratulated Bertha Johnson for being named the Budget Director.

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MOTION by Council Member Clement seconded by Mayor Pro Tempore Cole-McFadden to receive a presentation on the proposed Fiscal Year 2008-2009 Budget and Fiscal Year 2009-2014 Capital Improvement Plan was approved at 10:24 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

[GENERAL BUSINESS AGENDA – PUBLIC HEARINGS]

**SUBJECT: APPROVAL OF GREENFIRE REAL ESTATE HOLDINGS, LLC
"ROGERS ALLEY" SUB-PORTION OF DEVELOPMENT
AGREEMENT**

To receive public comments on an economic development incentive contract per G.S. § 158-7.1;

To authorize the City Manager to execute an “Economic Development Incentive Contract for Capital Investments for 'Rogers Alley' in Downtown Durham” between Greenfire Real Estate Holdings, LLC and the City of Durham for the Rogers Alley Subproject portion of the Greenfire Improvements Project; and

To authorize the City Manager to make changes to the contract as may be needed so long as they do not lessen the obligations of Greenfire Real Estate Holdings, LLC or increase the amount to be paid by the City.

Assistant City Manager for Economic and Workforce Development Alan DeLisle informed Council that this is an incentive contract just for the Rogers Alley component of the project that does not include any parking or real estate commitments on behalf of the City which will come later in the development agreement. He stated this is designed for the incentive component based on an investment threshold that needs to be obtained by the developer and will allow the developer to deliver on the first phase of the project.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive public comments on an economic development incentive contract per G.S. § 158-7.1;

To authorize the City Manager to execute an “Economic Development Incentive Contract for Capital Investments for 'Rogers Alley' in Downtown Durham” between Greenfire Real Estate Holdings, LLC and the City of Durham for the Rogers Alley Subproject portion of the Greenfire Improvements Project; and

To authorize the City Manager to make changes to the contract as may be needed so long as they do not lessen the obligations of Greenfire Real Estate Holdings, LLC or increase the amount to be paid by the City was approved at 10:26 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - WATER AND SEWER
LATERALS ON DIAL DRIVE**

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive public comments; and

To adopt a resolution confirming the assessment roll for Water and Sewer Laterals on Dial Drive from S. Alston Avenue East to East Property Line of Tax Map 555-11-16 was approved at 10:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - SEWER MAIN ON DIAL
DRIVE**

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive public comments; and

To adopt a resolution confirming the assessment roll for Sewer Main on Dial Drive from S. Alston Avenue East to East Property Line of Tax Map 555-11-16 was approved at 10:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - CURB, GUTTER AND
PAVING ON BEEBE DRIVE**

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive public comments; and

To adopt a resolution confirming the assessment roll for Curb, Gutter and Paving on Beebe Drive from Barbee Road to West Property Line of Tax Map 517-1-12A was approved at 10:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

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**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - WATER AND SEWER
LATERALS ON BEEBE DRIVE**

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive public comments; and

To adopt a resolution confirming the assessment roll for Water and Sewer Laterals on Beebe Drive from Barbee Road to West Property Line of Tax Map 517-1-12A was approved at 10:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - WATER MAIN ON BEEBE
DRIVE**

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive public comments; and

To adopt a resolution confirming the assessment roll for Water Main on Beebe Drive from Barbee Road to West Property Line of Tax Map 517-1-12A was approved at 10:29 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

**SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - CURB, GUTTER AND
PAVING ON CASTLEROCK DRIVE**

To receive public comments; and

To adopt a resolution confirming the assessment roll for Curb, Gutter and Paving on Castlerock Drive from NC Hwy 55 to end of cul-de-sac.

Due to objections, Ed Venable of the Public Works Department asked Council to adopt the resolution confirming the assessment roll except for the Shelton C. & Shirley T. Herbin, Jr. property, continue the public hearing for this assessment without further advertising and refer this assessment to a future City Council Work Session for further consideration.

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Mayor Bell opened the public hearing. There being no further objections, the Mayor closed the public hearing.

MOTION by Council Member Clement seconded by Council Member Woodard to receive public comments; and

To adopt a resolution confirming the assessment roll for Curb, Gutter and Paving on Castlerock Drive from NC Hwy 55 to end of cul-de-sac except for the Shelton C. & Shirley T. Herbin, Jr. property and continue the public hearing for this assessment without further advertising and refer this assessment to a future City Council Work Session for further consideration was approved at 10:30 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: CONFIRMATION OF ASSESSMENT ROLL - CURB, GUTTER AND PAVING ON DIAL DRIVE

To receive public comments; and

To adopt a resolution confirming the assessment roll for Curb, Gutter and Paving on Dial Drive from S. Alston Avenue East to East Property Line of Tax Map 555-11-16.

Due to an objection, Ed Venable of the Public Works Department asked Council to adopt the resolution confirming the assessment roll except for the except for the Louise E. Nevels property, continue the public hearing for this assessment without further advertising and refer this assessment to a future City Council Work Session for further consideration.

Mayor Bell opened the public hearing. There being no further objections, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Brown to receive public comments; and

To adopt a resolution confirming the assessment roll for Curb, Gutter and Paving on Dial Drive from S. Alston Avenue East to East Property Line of Tax Map 555-11-16 except for the Louise E. Nevels property and continue the public hearing for this assessment without further advertising and refer this assessment to a future City Council Work Session for further consideration was approved at 10:31 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

SUBJECT: INSTALLMENT FINANCING SERIES 2008

May 19, 2008

Interim City Attorney Karen Sindelar asked Council to refer to the staff report and she read the following motions that Council should be voting on:

To hold a public hearing to receive public comments concerning the contract, the deed of trust, the proposed acquisition, construction, equipping and installation of the projects, and the acquisition of the vehicles; and

To adopt without change or amendment the Resolution approving an installment financing contract, a deed of trust with respect thereto and delivery thereof and providing for certain other related matters.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Ali seconded by Council Member Clement to receive public comments concerning the contract, the deed of trust, the proposed acquisition, construction, equipping and installation of the projects, and the acquisition of the vehicles; and

To adopt without change or amendment the Resolution approving an installment financing contract, a deed of trust with respect thereto and delivery thereof and providing for certain other related matters was approved at 10:33 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #9552

[GENERAL BUSINESS AGENDA]

SUBJECT: AUTHORIZATION OF TWO-THIRDS BONDS

Interim City Attorney Karen Sindelar informed Council that this matter is not a public hearing, but deals with adopting a number of resolutions having to do with the two-thirds bonds and bond orders. She asked Council to refer to page 4 of the staff report for the recommended motions for adoption.

Interim City Attorney Karen Sindelar read each of the following motions:

To adopt a resolution making certain statements of fact concerning the proposed issuance of general obligation bonds of the City of Durham, North Carolina; and

To introduce the bond orders describing the use of bond proceeds;

To file the sworn statement of debt with the City Clerk, in the presence of the City Council, by the Finance Officer; and

May 19, 2008

To adopt a resolution calling a public hearing upon orders authorizing not exceeding \$4,335,000 Street and Sidewalk Improvement Bonds, \$5,570,000 Public Improvement Bonds, \$2,445,000 Parks and Recreation Bonds of the City of Durham, North Carolina.

MOTION by Council Member Ali seconded by Council Member Woodard to adopt a resolution making certain statements of fact concerning the proposed issuance of general obligation bonds of the City of Durham, North Carolina; and

To introduce the bond orders describing the use of bond proceeds;

To file the sworn statement of debt with the City Clerk, in the presence of the City Council, by the Finance Officer; and

To adopt a resolution calling a public hearing upon orders authorizing not exceeding \$4,335,000 Street and Sidewalk Improvement Bonds, \$5,570,000 Public Improvement Bonds, \$2,445,000 Parks and Recreation Bonds of the City of Durham, North Carolina was approved at 10:35 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Resolution #s 9553 - 9554

[PUBLIC HEARINGS CONTINUED]

SUBJECT: STREET CLOSING - VARIABLE WIDTH ALLEY AT ONSLOW STREET BETWEEN BERKELEY STREET AND LANCASTER STREET (SC07-13) - GEORGE H. WILLIAMS COLLABORATIVE, P. A.

City/County Planning Director Steve Medlin briefed Council on the street closing. He reported this request has been reviewed by all agencies and no impacts have been identified. He stated staff is recommending approval and notifications have been carried out in accordance with state statutes.

Mayor Bell opened the public hearing. There being no one to speak in support for or against this item, the Mayor closed the public hearing.

Council Member Clement disclosed that the applicant, George Williams, is his late wife's brother and there is no conflict of interest.

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive public comments to permanently close a 341 linear foot variable width unnamed alley at Onslow Street between Berkeley Street and Lancaster Street; and

To adopt an Order permanently closing a 341 linear foot variable width unnamed alley at Onslow Street between Berkeley Street and Lancaster Street as identified was approved at 10:37 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

May 19, 2008

Ordinance #13597

SUBJECT: STREET CLOSING - 507.50 LINEAR FOOT PORTION OF ONSLOW STREET BETWEEN WEST CLUB BOULEVARD AND AN UNNAMED VARIABLE WIDTH ALLEY (SC07-14) – GEORGE H. WILLIAMS COLLABORATIVE, P. A.

Mayor Bell opened the public hearing.

City/County Planning Director Steve Medlin briefed Council on the street closing. He reported this request has been reviewed by all agencies and no impacts have been identified. He stated staff is recommending approval and notifications have been carried out in accordance with state statutes.

There being no one to speak in support for or against this item, the Mayor closed the public hearing.

MOTION by Council Member Woodard seconded by Council Member Catotti to receive public comments for the permanent closing of a 507.50 linear foot portion of Onslow Street between West Club Boulevard and an unnamed variable width alley; and

To adopt an Order permanently closing a 507.50 linear foot portion of Onslow Street between West Club Boulevard and an unnamed variable width alley as identified was approved at 10:38 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13598

SUBJECT: STREET CLOSING – 514 FOOT LINEAR UNNAMED 20 FOOT WIDE ALLEY BETWEEN WEST CLUB BOULEVARD, ON THE SOUTH AND A VARIABLE WIDTH UNNAMED ALLEY, ON THE NORTH (SC07-15) - GEORGE H. WILLIAMS COLLABORATIVE, P. A.

Mayor Bell opened the public hearing.

City/County Planning Director Steve Medlin briefed Council on the street closing. He reported this request has been reviewed by all agencies and no impacts have been identified. He stated this request will result in the right-of-way being divided equally among multiple different property owners. He noted this request is a part of the Walltown Park Project and staff is recommending approval of this request.

There being no one to speak in support for or against this item, the Mayor closed the public hearing.

May 19, 2008

MOTION by Mayor Pro Tempore Cole-McFadden seconded by Council Member Woodard to receive public comments on the permanent closing of a 514 linear foot 20 foot alley between West Club Boulevard and a variable width alley; and

To adopt an order permanently closing a 514 linear foot 20 foot alley between West Club Boulevard and a variable width alley as identified was approved at 10:39 p.m. by the following vote: Ayes: Mayor Bell, Mayor Pro Tempore Cole-McFadden and Council Members Ali, Brown, Catotti, Clement and Woodard. Noes: None. Absent: None.

Ordinance #13599

There being no further business to come before the City Council, the meeting was adjourned at 10:39 p.m.

Linda E. Bratcher
Deputy City Clerk

D. Ann Gray, CMC
City Clerk